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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON
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8 FERMIN MENDOZA;
9 FRENCHMAN HILL
10 APARTMENTS RESIDENT
11 ASSOCIATION,

12 Plaintiffs,

13 v.

14 FRENCHMAN HILL
15 APARTMENTS LIMITED
16 PARTNERSHIP; CAMBRIDGE
17 MANAGEMENT, INC.; HOUSING
18 AUTHORITY OF GRANT
19 COUNTY; JOHN POLING, in his
20 official capacity as Executive
21 Director of the Housing Authority of
22 Grant County; WASHINGTON
23 STATE HOUSING FINANCE
24 COMMISSION; KIM HERMAN in
25 his official capacity as Executive
26 Director of the Washington State
27 Housing Finance Commission,

28 Defendants.

NO. CV-03-494-RHW

ORDER GRANTING, *SUA SPONTE*, PARTIAL SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS

21 Before the Court is Plaintiffs' Objection to *Sua Sponte* Entry of Summary
22 Judgment for Defendants (Ct. Rec. 62). The Plaintiffs' Objections were filed in
23 response to the Court's Order, dated January 20, 2005, Granting in Part and
24 Denying in Part Plaintiffs' Motion for Summary Judgment. In the Objections,
25 Plaintiffs move the Court to reconsider its ruling that the good cause provision
26 contained in 26 U.S.C. § 42(h)(6) does not create a right enforceable under 42
27 U.S.C. § 1983. The Plaintiffs urge the Court to consider and apply the test outlined
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ORDER GRANTING, *SUA SPONTE*, PARTIAL SUMMARY JUDGMENT IN FAVOR OF DEFENDANTS * 1

1 by the Supreme Court in *Blessing v. Freestone*, 520 U.S. 329 (1997), which was
2 cited by the Court in *Gonzaga University v. Doe*, 536 U.S. 273, 282 (2002). The
3 Court has reexamined the record and the case law cited by the Plaintiffs, and finds
4 no compelling reason to reconsider its earlier rulings.

5 Having reviewed the record, heard from counsel, and been fully advised in
6 this matter, **IT IS HEREBY ORDERED** that:

7 1. The Court, *sua sponte*, **GRANTS** entry of partial summary judgment in
8 favor of the Defendants on the issue of whether Plaintiffs have an enforceable right
9 under 42 U.S.C. § 1983 to a clause in an extended low-income housing
10 commitment containing certain eviction and termination protections described in
11 26 U.S.C. § 42(h)(6)(B).

12 2. The Court **sets** a status conference on **Wednesday, March 2, 2005**, at
13 **2:30 p.m.**, to discuss how the parties wish to proceed on the Plaintiffs' remaining
14 Retaliatory Eviction claim, under RCW 59.18.240. At the time set for the hearing,
15 the parties shall call the Court's conference line at (509) 353-3180.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
17 Order and forward copies to counsel.

18 **DATED** this 15th day of February, 2005.

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20 s/ ROBERT H. WHALEY
21 UNITED STATES DISTRICT JUDGE
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